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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,866	12/29/2003	Richard Rivera	TROPIP.041DV1	2806

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EXAMINER

CHAN, KO HUNG

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/747,866

Applicant(s)

RIVERA, RICHARD

Examiner

Korie H. Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/29/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9, 11, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9, line 2, "relatively thin center portion and thicker side portions" are vague and indefinite as it is not clear relative to what is it thin or thick. Regarding claim 11, line 2, "a first end of said elongate member" should be corrected to "**said** first end of said elongate member".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

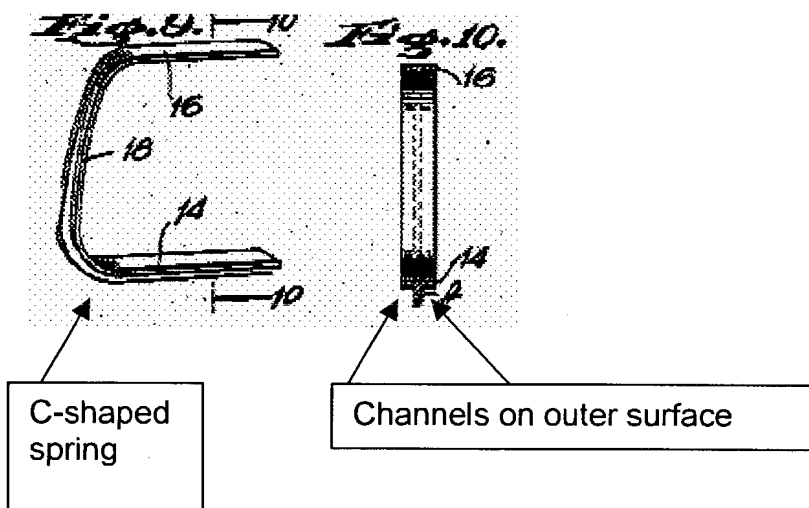
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims, 1, 2, 4, 5, 7, 8, 10, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Mies (US patent no. 2,283,755). Mies disclosed all the claimed features of applicant's invention (see illustration below). Regarding claim 2, applicant's intended use between a base portion and seat portion of a chair has not been accorded with patentable weight. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art

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structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Mie's C-shaped spring is capable of being used between a base portion and seat portion of a chair.



Claims 1, 4-6, 8-10, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Rowland et al (US patent no. 2,533,511). Rowland discloses a C-shaped spring (figure 11) having longitudinal channels on outer surface and flat inner surface and with first and second adjacent ends (5) having a hole for fastener (F) attachment to a component (D) with thicker side portion (3) and thin center portion (2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mies (US patent no. 2,283,755) in view of Vanderminden, Sr. (US patent no. 5,599,064). Mies disclosed all the claimed features of applicant's invention except for the spring as made of aluminum. Making springs from aluminum for its flexural properties is old and well-known in the art. Vanderminden, Sr. teaches making a C-shaped spring (25) for a chair from aluminum (Col. 2, line 52). It would have been obvious to one of ordinary skill in the art to have made Mies' spring from aluminum as such material for making spring is old and well-known as demonstrated by Vanderminden, Sr..

Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mies (US patent no. 2,283,755) in view of Holmstrom (US patent no. 3,297,360). Mies disclosed all the claimed features of applicant's invention except for the hole in the first end of elongate member for attachment to component. Mies disclose the seat member is secured to the seat engaging portion of the elongate support in any suitable manner (col. 2, lines 15-18). To attach support to seat member by providing hole in the elongate member for receiving fastener is old and well-known in the art. Holmstrom teaches in a C-shaped spring support having holes (figure 2) at first end for receiving fastener for attachment to the seat member (figure 5). It would have been obvious to

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one of ordinary skill in the art to provide hole in the first end of Mie's C-shaped spring for receiving fastener for attachment to the seat member as taught by Holmstrom.

Regarding claim 19, the method step of making the spring would have been obvious given the spring of Mies and Holmstrom combined.

Claims 1-10 and 12 -18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanderminden, Sr. (US patent no. 5,599,064) in view of Rowland et al (US patent no. 2,533,511). Vanderminden discloses two C-shaped springs (25) connected by a horizontal support ((29) with downward post (22) wherein the C-spring is made of aluminum (Col. 2, line 52). However, Vanderminden does not disclose providing channel or two channels on the C-shaped spring. Rowland teaches a C-shaped spring (figure 11) having longitudinal channel(s) on outer surface and flat inner surface and with first and second adjacent ends (5) and with thicker side portion (3) and thin center portion (2) such that stress on the spring under loading are substantially constant throughout the major portion of the spring (Col. 3, lines 1-6). It would have been obvious to one of ordinary skill in the art to have modify the springs of Vanderminden such that channel or channels are provided for even distribution of stress of the spring under loading as taught to be desirable by Rowland. Regarding claim 12, it would have been an obvious matter of design choice to have the side portion 30% thicker than the center portion since applicant has not disclose such specific dimension is critical or of particular advantage. Moreover, it appears other percentage of thickness would perform as well.

Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanderminden, Sr. (US patent no. 5,599,064) in view of Rowland et al (US patent no. 2,533,511) as applied above, and further in view of Holmstrom (US patent no. 3,297,360). Vanderminden and Rowland combined disclosed all the claimed features of applicant's invention except for the hole in the first end of elongate member for attachment to component. To attach support to seat member by providing hole in the elongate member for receiving fastener is old and well-known in the art. Holmstrom teaches in a C-shaped spring support having holes (figure 2) at first end for receiving fastener for attachment to the seat member (figure 5). It would have been obvious to one of ordinary skill in the art to provide hole in the first end of C-shaped spring of Vanderminden and Rowland combined for receiving fastener for attachment to the seat member as taught by Holmstrom. Regarding claim 19, the method step of making the spring would have been obvious given the spring of Vanderminden, Rowland, and Holmstrom combined.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Swinton, Berry, Dixon, Ohno et al further demonstrate leaf spring with channel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Korie H. Chan
Primary Examiner
Art Unit 3632

khc
June 22, 2004